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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/757,130      | 01/09/2001  | Benjamin Englander   | P/1123-53           | 6441             |

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OSTROLENK FABER GERB & SOFFEN  
1180 AVENUE OF THE AMERICAS  
NEW YORK, NY 100368403

EXAMINER

NGUYEN, THONG Q

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2872

DATE MAILED: 11/12/2002

15

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicant N .

09/757,130

Applicant(s)

ENGLANDER, BENJAMIN

Examiner

Thong Q. Nguyen

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period of Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 August 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. The present Office action is made in response to the request for reconsideration (Paper No. 13) filed by applicant on 8/20/2002.

***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-6 and 8, are rejected under 35 U.S.C. 103(a) as being unpatentable over Stout (U.S. Patent No. 4,822,157, of record) in view of Falge (U.S. Patent No. 1,768,354, of record).

Stout discloses a mirror assembly for use with a school bus wherein the mirror assembly is attached to a front fender of the bus for the purpose of providing the driver of the bus visual access to the area in front of the school bus as well as to the sides of the bus. The mirror assembly as stated at column 2 and shown in figure 1 comprises a mirror element (26) having an oval ellipsoidal shape and configured as a convex, generally dome shaped and contiguous mirror surface wherein the mirror assembly is secured to a mirror pole (20) via a securing means (48, 50, 52). The mirror pole (20) in turn is inherently secured to the front fender of the school bus. See column 3 and fig. 1. As such, the mirror assembly provided by Stout meets all of the limitations of the device as claimed except a portion of the mirror element being treated for reducing glare.

The treatment on a portion of the mirror element, in particular, on an upper portion of the mirror, for the purpose of reducing glare is known to one skilled in

the art as can be seen in the optical system provided by Falge. In particular, Falge discloses a mirror system having a mirror surface wherein the upper portion of the mirror is treated to reduce glare without rendering the treated portion opaque as to be non-reflective. See Falge, page 2 and fig. 8, for example. It is also noted that the portion being treated (36) for reducing glare as shown in the embodiment of figure 8 has an area of one-half of the upper one-third of the mirror (see page 2, column 2, lines 93-101). See also **In re Wertheim**, 541 F. 2d 257, 191 USPQ 90 (CCPA 1976), "the disclosure in the prior art of any value within a claimed range is an anticipation of that range." See also, **Titanium Metals Corporation of America**, 227 USPQ 773 (Fed. Cir. 1985), **In re Petering**, 301 F. 2d 676, 133 USPQ 275 (CCPA 1962). With regard to the feature concerning the formation of the coating band as recited in claim 4, such a feature is directed to a method step and thus is not given a patentable weight. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the mirror assembly provided by Stout by making at least a portion of the upper one-third of the mirror as a treated portion for reducing glare.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stout in view of Falge as applied to claim 1 above with or without Malifaud (U.S. Patent No. 3,199,114).

The combined product as provided by Stout and Falge as described above meets all of the features recited in present claim 7 except the treated portion is

located on one side relative to the minor axis of the mirror surface. However, such an arrangement of a treated portion with respect to the area of an optical element having a substantially oval shape as claimed is merely that of a preferred embodiment and no criticality has been disclosed. The support for this conclusion is found in the present specification in which applicant has taught that the treated portion is extended on both side of the minor surface as can be seen in the embodiment described at pages 4-5 and illustrated in present figure 2A-2C. Furthermore, the use of an anti-glare portion which is located on one side of an optical element having an oval shape and on a side relative to a minor axis of the optical element is known to one skilled in the art as can be seen in the anti-glare system provided by Malifaud. See column 5 and fig. 5. Thus, absent any showing of criticality, it would have been obvious to one skilled in the art at the time the invention was made to utilize the teaching, i.e., use the antiglare portion on just one side of an optical element as suggested by Malifaud in the combined product provided by Stout and Falge by using a portion on just one side of the minor axis of a mirror surface which portion is necessary to the driver's field of view as a treated portion for reducing glare and simultaneously reducing the manufacture cost.

### ***Response to Arguments***

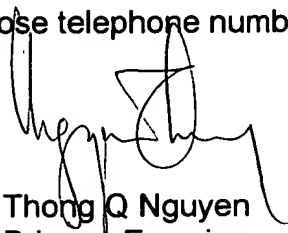
5. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q Nguyen whose telephone number is 703 308 4814. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cassandra Spyrou can be reached on 703 308 1687. The fax phone numbers for the organization where this application or proceeding is assigned are 703 308 7724 for regular communications and 703 308 7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.



Thong Q Nguyen  
Primary Examiner  
Art Unit 2872

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November 7, 2002